

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

JS-6

Case No. CV 12-08219 DMG (Ex) Date October 12, 2012

Title *Colfin A1 CA 5 LLC v. Donald E Hall, et al.* Page 1 of 2

Present: The Honorable DOLLY M. GEE, UNITED STATES DISTRICT JUDGE

VALENCIA VALLERY

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)

None Present

Attorneys Present for Defendant(s)

None Present

**Proceedings: IN CHAMBERS—ORDER REMANDING TO LOS ANGELES COUNTY
SUPERIOR COURT FOR LACK OF SUBJECT MATTER
JURISDICTION**

On July 23, 2012, Plaintiff Colfin A1 CA 5,¹ LLC filed a complaint for unlawful detainer in Los Angeles County Superior Court against Defendant Donald E. Hall. On September 24, 2012, the Defendant removed the action to this Court on the basis of federal question jurisdiction. See Notice of Removal [Doc. # 1]. On October 1, 2012, this Court issued an Order to Show Cause (“OSC”) as to why this action should not be remanded for lack of subject matter jurisdiction [Doc. # 5]. On October 5, 2012, Defendant filed a response (“Response”) [Doc. # 6].

As this Court explained in its OSC, under 28 U.S.C. § 1331, district courts have jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” A case “arises under” federal law within the meaning of Section 1331 “if a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal law.” *Proctor v. Vishay Intertechnology Inc.*, 584 F.3d 1208, 1219 (9th Cir. 2009) (quoting *Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677, 689-90, 126 S.Ct. 2121, 165 L.Ed.2d 131 (2006)) (internal quotation marks omitted). Plaintiff’s claims, however, do not appear to arise under federal law. Additionally, it is “settled law that a case may not be removed to federal court on the basis of a federal defense.” *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009)(quoting *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 14, 103 S.Ct. 2841, 77 L.Ed.2d 420 (1983)). Thus, there appears to be no federal question jurisdiction.

Defendant’s Response essentially reiterates his Notice of Removal, conclusorily asserting this Court has jurisdiction because the “complaint presents federal questions.” (Response at 2.) As noted in the OSC, however, the complaint is merely an unlawful detainer action, and

¹Although the Notice of Removal identifies Plaintiff as “Colfin A1 CA 4” in the caption, the underlying complaint indicates that Plaintiff is, in fact, “Colfin A1 CA 5.” The Court therefore uses Plaintiff’s name as it appears in the underlying complaint.

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Defendant plans to raise a federal defense under 12 U.S.C. § 5220. (Notice of Removal ¶ 8.) “The burden of establishing federal subject matter jurisdiction falls on the party invoking removal.” *Marin Gen. Hosp. v. Modesto & Empire Traction Co.*, 581 F.3d 941, 944 (9th Cir. 2009) (citing *Toumajian v. Frailey*, 135 F.3d 648, 652 (9th Cir. 1998)). Defendant has not met this burden.

Therefore, this action is hereby **REMANDED** to the Los Angeles County Superior Court for lack of subject matter jurisdiction.

IT IS SO ORDERED.